

ORIGINAL
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

JOHN WILLIAM WATSON

CR.NO. 1:00CR-
119-03

V.

{JUDGE YVETTE KANE

UNITED STATES OF AMERICA

FILED
HARRISBURG, PA

Dated: April 2, 2005

APR 07 2005

PETITIONER'S MOTION TO REQUEST
PRODUCTION OF TRANSCRIPTS REFERED
TO BY THE COURT.....

MARY E. D'ANDREA, CLERK
Per KJW
Deputy Clerk

And now comes the petitioner pro-se, and moves before this Honorable court requesting that the court compel Government an/or Court Reporter to produce "Trial Transcripts" referred to by the Court in it's opinion denying defendants (28 USC 2255) argument that substantial portions of "closing argument" Trial Transcripts were either redacted or never prepared for the defendant or current counsel to review on appeal. The Court denied the petitioners 2255 petition on Feb. 28, 2005.

ARGUMENT OF THE CASE

- The petitioner respectfully submits that in an effort to review the full record of Trial within the pages of the transcripts provided by the court for appeal he and current Counsel noticed that substantial portions (closing arguments) of the trial transcript were either redacted or not prepared. Petitioner subsequently referred to specific sections within the transcripts provided by and acknowledged that on Nov. 22, 2000 this court specifically ordered "closing argument" by both Government and Counsel for defendant; the trial was subsequently continued until Nov. 27, 2005 at 1:30 pm for the purposes of allowing both party's a requested opportunity to prepare a more thorough "closing argument". (see.. exhibit #1 attached...Trial Tr. pages #424-425).

continued-

The Trial "minute sheet" confirms that on Nov. 27, 2005 at 1:30 pm (3rd. day of trial) that Government made closing Argument, Counsel for defendant made closing argument, and that Government made rebuttal argument. These transcript were either never prepared an/or was redacted from the record. Finally, on page #427 of trial transcript above the very top of page in only indicates in parenthesis that: "Government and Counsel for Defendant gave --- Closing Arguments"; there was no production of the "over 40 pages of closing argument" that the court refers to in its opinion on page #13 of the Memorandum and Order issued on 2-28-05; None of which for the record the defendant or Appeal Counsel could review for possible "prejudice" or "Due-Process" violation. The production of full record is a strict requirement under 28 U.S.C. 753 B of the Federal Rules of Procedure.

SUMMARY OF ARGUMENT

This Honorable Courts recent ruling cites that "over 40 pages" of "closing argument" in the Trial transcript exist and referred to them by page no. #. These specific transcripts this Court referenced either exist or they do not! If they are provided then they would have to be out of order. Also, the failure to make them available to the defendant on a untimely basis would be on the Defendants former Counsel of whom was responsible for ordering them. Current counsel filed timely motion on behalf of the defendant claiming that the transcripts "didn't exist". If the court were to provide them, then they are out of order and provided untimely. If the Court cannot provide them, then it's a matter of a new trial and atleast some reasoning as to why this honorable Court made specific cites to them in it's ruling. The responsibility could also rest on the shoulder of the court for failure to preserve them (trial Trans.)

MAIN CONCLUSION

Wherefore, the petitioner request that this Honorable Court compel either Government or Court Reporter to produce an/or represent that the record of "closing argument" do not exist on the basis of aforementioned fact set forth in this petition.

Respectfully,

CERTIFICATE OF SERVICE

I JOHN WILLIAM WATSON CERTIFY THAT ON THIS DAY OF APRIL 2, 2005, I mailed certified copy of attached legal memorandum to:

WILLIAM A. BEHE (AUSA)
p.o box #11754
228 Walnut Street
Harriburg, Pa.. #17108

Most Respectfully Submitted

JOHN WILLIAM WATSON
#10075-067
U.S.P./CANAAN
P.O. BOX 3000
Waymart, Pa. #18472

Dated : April 2, 2005

Nov. 22, 2000 (Tr. Trans.)

424

1 appearing there at nine o'clock Monday morning. What's going
2 to happen, I don't know, but that's the schedule.

3 THE COURT: Mr. Behe, are you going to be calling
4 any witnesses in rebuttal?

5 MR. BEHE: No.

6 THE COURT: No.

7 MR. BEHE: Things were resolved during the course
8 of testimony.

9 THE COURT: I'd like to hear argument from counsel
10 on the case. We could do that this afternoon without the
11 court reporter or we could do it on Monday. I would have to
12 release the court reporter if we do it this afternoon though.

13 MR. BEHE: I wouldn't mind having the opportunity
14 just to review the notes and present a more cogent argument,
15 although over the short period of time I'm familiar enough
16 with the facts that I could do it.

17 MR. O'CONNELL: I would feel comfortable being able
18 to go over my notes a little bit in order to provide
19 something more useful than something I can provide straight
20 off the top of my head.

21 THE COURT: Mr. O'Connell, with Mr. Watson's
22 subpoena, what would be a safe time to set this, maybe eleven
23 o'clock on Monday? Do you think that would give you enough
24 time next door or we could set it right after lunch?

25 MR. O'CONNELL: I think after lunch will be safer.

EMERSON & A

N. 1194

1 I'm visualizing my calendar.

2 THE COURT: Okay. Miss Kennedy, could you schedule
3 this for 1:30 on Monday afternoon. All right. We'll be in
4 recess until Monday. Have a nice Thanksgiving everybody.

5 (The proceedings concluded at 4:35 p.m.)

6 I hereby certify that the proceedings and evidence
7 of the court are contained fully and accurately in the notes
8 taken by me on the non-jury trial of the within cause and
9 that this is a correct transcript of the same.

10 Monica L. Zamiska

11 Monica L. Zamiska, RPR

12 Official Court Reporter
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R-495

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :

v. :

JOHN WATSON,
Defendant :

: CRIMINAL NO. 1:00-CR-119-03
(Judge Kane)

TRANSCRIPT OF PROCEEDINGS
NON-JURY TRIAL
VOLUME 3 - PAGES 426 - 430

Before: HON. YVETTE KANE, JUDGE

Date : November 27, 2000, 1:37 p.m.

Place : Courtroom No. 4
Federal Building
Harrisburg, Pennsylvania

By : Bethann M. Mulay, Notary Public
Registered Professional Reporter

Deliberation / Verdict

APPEARANCES:

No Closing Argument Transcript / None Available
WILLIAM A. BEHE, ESQ., ASSISTANT U.S. ATTORNEY

For - Government

TIMOTHY J. O'CONNELL, ESQ.

For - Defendant

EXHIBIT #2

1 (Mr. Behe and Mr. O'Connell presented their 427
2 closing arguments.)

3 NO Closing Argument Transcript / NONE
4 THE COURT: I wanted to hear argument from AVAILABLE
5 counsel today, and my expectation was that I would
6 deliberate this afternoon and maybe even tomorrow.
7 But it has been a case that I have not had good
8 success in setting aside.

9 I thought the witnesses were powerful. They
10 were people who are really hard to forget at the end
11 of the day. And as a result, I can tell you that I've
12 been deliberating through the entire weekend.

13 Mr. Watson is a powerful person himself.
14 I've had, as you know, a lot of opportunities to have
15 exchanges with him in the courtroom. And I came to
16 this courtroom hoping that everything I had heard from
17 Mr. Watson on the record before was true and that I
18 would be in a position to find him not guilty of all
19 charges because most of us you want to believe the
20 best about a person. So I came here completely with
21 an open mind and believing that Mr. Watson was going
22 to prove everything that he said was the case.

23 I do find that the defendant is not guilty
24 of the crime of conspiracy. I don't think that the
25 Government has established beyond a reasonable doubt
the elements of the conspiracy charge. I think had

Proceedings include all events.
1:00cr119-ALL USA v. Morrison, et al

WVFILE

11/21/00 157 WRIT returned unexecuted as to C.Miller; released from custody. (pr) [Entry date 11/21/00]

11/21/00 162 MINUTE SHEET: before Judge Yvette Kane bench trial began as to John Watson. Dft present w/cnsl. Govt introduces case & calls witnesses. CTR: M.Zamiska (pr) [Entry date 11/27/00]

11/22/00 158 WRIT returned executed; T.Elliott ret'd to CCP 11/21/00. (pr) [Entry date 11/22/00]

11/22/00 159 WRIT returned executed; L.Abraham ret'd to DCP 11/21/00. (pr) [Entry date 11/22/00]

11/22/00 160 WRIT returned executed; A.Smith ret'd to DCP 11/21/00. (pr) [Entry date 11/22/00]

11/22/00 161 WRIT returned executed; K.Holmes ret'd to DCP 11/21/00. (pr) [Entry date 11/22/00]

11/22/00 163 MINUTE SHEET: 2nd day of bench trial before Judge Yvette Kane. Dft Watson present w/cnsl. Govt witnesses continue & govt rests case in chief. Dft moves for judgment of acquittal & taken under advisement. Dft calls witnesses & rests case in chief. Dft exhibits admitted. CTR: M.Zamiska as to John Watson (pr) [Entry date 11/27/00]

11/27/00 164 WRIT returned executed; D.Mills ret'd to SCI-CH 11/6/00. (pr) [Entry date 11/27/00]

11/27/00 165 WRIT returned executed; L.Morrison ret'd to DCP 11/20 and 11/21/00. (pr) [Entry date 11/27/00]

11/27/00 166 MINUTE SHEET: before Judge Yvette Kane 3rd day of trial. Govt makes closing argument; dft makes closing argument; govt makes rebuttal argument. Dft found guilty Count 7s and not guilty count 8s, as to John Watson. Appeal rights given. Sentence deferred pending presentence report. CTR: B.Mulay (pr) [Entry date 11/28/00]

11/27/00 167 EXHIBIT list by plaintiff USA (pr) [Entry date 11/28/00]

11/27/00 168 EXHIBIT list by defendant John Watson (pr) [Entry date 11/28/00]

EXTENSIVE

Exhibit # 3

MR. JOHN WILLIAM WATSON #10075-067
UNITED STATES PENITENTIARY/ CANAAN
P.O. BOX 300
WAYMART, PENNSYLVANIA #18472

RETURN RECEIPT
REQUESTED



UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT COURT OF PA..

THE OFFICE OF THE CLERK OF COURT
(HON. JUDGE YVETTE KANE).....

228 WALNUT STREET.....
HARRISBURG, PENNSYLVANIA...#17108

LEGAL MAIL

LEGAL MAIL

LEGAL MAIL

